IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2666 OF 2005
AND
SUIT NO. 1116 OF 2005

Industrial Development Bank
of India Limited. ...Plaintiff
V/s.
Dabhol Power Company & Ors. ...Defendants

Mr.Virag Tulzapurkar alongwith Mr.Sanjay Mishra i/b. Amarchand & Mangaldas for Plaintiff.

Mr.Shaukat Merchant alongwith Sindhu Sarath & Manik Joshi i/b. M & M Legal Venture for Defendant No.1.

Mr.Virag Maniyar for Defendants No.2 to 7.

Mr.V.C. Kotwal for Employees.

Mr.Jimit Shah i/b. Dave Girish & Co. for Defendant No.6.

Mr.Sunip Sen for all Creditors and Project affected person.

Ms.Ruchi Narula alongwith Nitin Sharma i/b. Jurisconsultus Consultus for Ratnagiri Gas Power Pvt.Ltd. for Respondent No.2.

Mr.D.R. Dhurat, 1st Asstt.to Court Receiver & Mr.MHI Patel, Asstt.Prothonotary, represntative of Court Receiver Present.

CORAM : S.U. KAMDAR, J.
DATED : SEPTEMBER 22, 2005

P.C. :-

. Leave to amend in terms of draft amendment.

Amendment to be carried out within one week from today. Plaintiffs are granted leave to apply for sale of the properties of the defendant no.1 in respect of which Court Receiver, High Court, Bombay, is appointed as Receiver. The parties have tendered a Minutes of Order. The same is taken on record and marked "X" for identification. There shall be an order in terms of Minutes of Order.

2. Learned Counsel appearing for the plaintiffs states that in so far as the claim of unsecured creditors is concerned, they will be at liberty to apply for appropriate proceedings for adjudication of their claim. In any event, if any unsecured creditors obtains any order or decree, then they will be entitled for the said amount subject to the following. In that event, Court shall appoint a valuer for valuation of the assets which are coming in the hands of the respondent no.7 under the present order and on receipt of such valuation report, the Court shall first take into consideration the claim of the plaintiffs as well as other secured creditors and if there is residue left, then the said

amount will be made available by the plaintiffs towards the claim of the said unsecured creditors and the claim of theirs will be satisfied to such an extent as far as possible towards the said adjudicated claim.

3. In so far as workers are concerned, if they have obtained any award or decree from any court or competent jurisdiction and if they are entitled to paripasu charge under Section 529-A of the Companies act, then in that event, plaintiffs and other Banks and financial institutions to whom the sale proceeds has been paid under this order shall discharge that liability in accordance with the principles of paripasu charge provided under Section 529-A of the Act.

4. In so far as other employees are concerned which are not entitled to such protection under Section 529-A, they will stand alongwith unsecured creditors and their rights will be covered by the same provision as made in respect of unsecured creditors.

5. All the parties who are appearing in the present

suit have no objection to the aforesaid arrangement which takes care of unsecured creditors as well as workers and other employees of the said Company.

6. Suit is decreed in terms of Minutes of Order tendered. Notice of Motion No.2666-05 disposed of in terms of Minutes of Order. No order as to costs.

. Certified copy expedited.

. Parties to act on the authenticated copy of this order.

(S.U. KAMDAR, J.)